

**REMARKS**

Restriction was required under 35 U.S.C. § 121 and 372 from the following groups of inventions:

- Group I: Claim(s) 65-80, drawn to a method for detecting the presence of infection by a pathogenic agent and a method of detecting a disease condition comprising determining the level of a cell surface marker selected from the group consisting of Toll-like receptors.
- Group II: Claim(s) 81-92, drawn to a method for monitoring a response to a therapeutic protocol to prevent infection by a pathogenic agent and to prevent the development of a disease condition comprising determining the level of a cell surface marker selected from the group consisting of Toll-like receptors.
- Group III: Claim(s) 93-104, drawn to a method for determining whether a subject will respond to therapeutic and a prophylactic intervention of infection by a pathogenic agent and to prevent a development of a disease condition, comprising determining the level of a cell surface marker selected from the group consisting of Toll-like receptors.
- Group IV: Claim(s) 105 -116, drawn to a method for predicting the outcome of a therapeutic protocol to prevent infection by a pathogenic agent the method comprising determining the level of a cell surface marker selected from the group consisting of Toll-like receptors.
- Group V: Claim(s) 117-134, drawn to a method of treating a subject infected with a pathogenic organism and a method of treating a subject having a disease or condition comprising administering to a subject an effective amount of an agent which affects the level of a cell surface marker selected from the group consisting of Toll-like receptors.
- Group VI: Claims 135 and 136 drawn to a composition comprising a compound selected from the group consisting of Toll-like receptors, Toll-like receptor agonists or antagonists.

Application No.: 10/550,198  
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### Response to Restriction Requirement

Applicants elect Group II, drawn to Claims 81-92, drawn to a method for monitoring a response to a therapeutic protocol to prevent infection by a pathogenic agent and to prevent the development of a disease condition comprising determining the level of a cell surface marker selected from the group consisting of Toll-like receptors. New Claims 137 and 138 are properly dependent on Claim 81 and should be included with Group II Claims.

### No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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